

# **EXHIBIT D**

1                               IN THE UNITED STATES DISTRICT COURT  
2   FOR THE  
3                               SOUTHERN DISTRICT OF NEW YORK

4       THE EXPORT IMPORT BANK OF       )  
5       THE REPUBLIC OF CHINA,       )  
6   )  
7                               Plaintiff,       )  
8   ) Civil Action  
9                               vs.       ) No. 97 CIV 3090  
10   )  
11       REPUBLIQUE du NIGER,       )  
12   )  
13                               Defendant.       )

14                               THE DEPOSITION OF JAMES E. NEVLING,  
15       taken before Cordelia Busse Wert, a Certified  
16       Shorthand Reporter and Notary Public within and  
17       for the State of Illinois, taken pursuant to the  
18       provisions of the Federal Rules of the United  
19       States District Courts pertaining to the taking of  
20       depositions, taken at One South Dearborn Street,  
21       Suite 3800, Chicago, Illinois, at the hour of  
22       approximately 9:32 a.m. on November 11, 2014.  
23  
24

<p style="text-align: right;">22</p> <p>1 A. I couldn't swear to any individual</p> <p>2 names.</p> <p>3 BY MR. SUMMIT:</p> <p>4 Q. Okay.</p> <p>00:28:06 5 A. I know they had legal counsel at one</p> <p>6 point. I know they had a finance guy at one</p> <p>7 point. I don't know either of their names.</p> <p>8 Q. Now, were the legal counsel Nigerien?</p> <p>9 A. Yes.</p> <p>00:28:22 10 Q. And the financial guy was Nigerien?</p> <p>11 A. Yes.</p> <p>12 Q. So far as you know, were they counseled</p> <p>13 at all in connection with this first agreement</p> <p>14 that we've marked as Exhibit 6 by US counsel or</p> <p>00:28:54 15 financial advisors?</p> <p>16 MR. CROKE: Objection to form. What do</p> <p>17 you mean by "were they counseled"?</p> <p>18 MR. SUMMIT: Well, I'll -- I think it's</p> <p>19 clear, but let me rephrase it.</p> <p>00:29:06 20 BY MR. SUMMIT:</p> <p>21 Q. So far as you know, did US counsel play</p> <p>22 any role at all on their behalf, on SOPAMIN's</p> <p>23 behalf, in connection with the first agreement?</p> <p>24 A. I'm not aware of any US counsel that</p>	<p style="text-align: right;">23</p> <p>1 played a role.</p> <p>2 Q. Okay. And the same question as to</p> <p>3 financial advisors, any US financial advisors on</p> <p>4 behalf SOPAMIN?</p> <p>00:29:28 5 A. I'm not aware of any US financial</p> <p>6 advisors.</p> <p>7 Q. Okay. And during your two trips there,</p> <p>8 did you meet any -- did you meet the Minister of</p> <p>9 Mines for Niger?</p> <p>00:29:50 10 A. Yes.</p> <p>11 Q. Do you recall his name?</p> <p>12 A. Mohamed Abdoulahi.</p> <p>13 Q. And correct me if I'm wrong, but I</p> <p>14 think the spelling is M-O-H-A-M-E-D and</p> <p>00:30:08 15 A-B-D-O-U-L-A-H-I.</p> <p>16 And what were the circumstances under</p> <p>17 which you met Mr. Abdoulahi?</p> <p>18 A. We went to his office. He expressed</p> <p>19 some satisfaction that we were there to do</p> <p>00:30:38 20 business directly and not through Areva.</p> <p>21 Q. Did Exelon in connection with this</p> <p>22 potential contractual relationship with SOPAMIN --</p> <p>23 A. Uh-huh.</p> <p>24 Q. -- do any kind of investigation of</p>
<p style="text-align: right;">24</p> <p>1 SOPAMIN?</p> <p>2 A. No. In truth, not.</p> <p>3 Q. Did you have an understanding during</p> <p>4 the period of negotiations with SOPAMIN as to</p> <p>00:31:26 5 whether SOPAMIN was a governmental entity or a</p> <p>6 nongovernmental entity?</p> <p>7 MR. CROKE: Objection, calls for a</p> <p>8 legal conclusion.</p> <p>9 BY MR. SUMMIT:</p> <p>00:31:34 10 Q. But I think he's saying you can answer</p> <p>11 it anyway.</p> <p>12 MR. CROKE: You can answer it.</p> <p>13 BY THE WITNESS:</p> <p>14 A. Did I have an understanding?</p> <p>00:31:40 15 BY MR. SUMMIT:</p> <p>16 Q. Yes.</p> <p>17 A. It was plain that they were affiliated</p> <p>18 in some fashion with the government.</p> <p>19 Q. And what made you derive that</p> <p>00:31:58 20 conclusion? What brought you to that conclusion?</p> <p>21 A. It was the meeting with the Mines</p> <p>22 Minister. It seemed to get relatively high-level</p> <p>23 attention, the potential deal.</p> <p>24 Q. How do you know that? How do you know</p>	<p style="text-align: right;">25</p> <p>1 it was getting high-level attention?</p> <p>2 A. Well, I mean, he's the Minister of -- a</p> <p>3 Government Ministries Cabinet Minister. I'm</p> <p>4 reasonably confident that I haven't met with a</p> <p>00:32:48 5 Cabinet Minister from any of my other suppliers.</p> <p>6 Q. Who are your other suppliers, if I may</p> <p>7 ask?</p> <p>8 A. Oh.</p> <p>9 MR. CROKE: Objection to the form.</p> <p>00:33:04 10 Other suppliers for what?</p> <p>11 BY MR. SUMMIT:</p> <p>12 Q. I assume we're talking about --</p> <p>13 A. Uranium.</p> <p>14 Q. -- uranium, the technical term being</p> <p>00:33:12 15 triuranium --</p> <p>16 A. Triuranium octoxide.</p> <p>17 Q. -- octoxide. Thank you.</p> <p>18 Who are the other supplies to Exelon?</p> <p>19 I just -- I just would like to get a sense of the</p> <p>00:33:28 20 landscape here of the other suppliers to Exelon of</p> <p>21 U308.</p> <p>22 A. Currently there are, I don't know, a</p> <p>23 dozen, 15, without precision.</p> <p>24 We have contracts with Areva. We have</p>

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26	<p>1 contracts with Tenex which is the Russians. We</p> <p>2 have contracts with Rio Tinto from mining projects</p> <p>3 in Australia. We have contracts with Cameco from</p> <p>4 Canada. And there are a number of intermediary</p> <p>00:34:16 5 firms.</p> <p>6 Q. Okay.</p> <p>7 A. Brokers, traders, and so forth.</p> <p>8 Q. That's helpful.</p> <p>9 During the period from 2007 to the</p> <p>00:34:30 10 present, where on the scale of magnitude has the</p> <p>11 Nigerien supply of U308 ranked among the suppliers</p> <p>12 to Exelon?</p> <p>13 A. To Exelon? They're essentially one of</p> <p>14 our second-tire suppliers. So this represents</p> <p>00:34:56 15 six, eight, ten percent of our annual purchases.</p> <p>16 Q. Wow.</p> <p>17 A. It's a small market. So there aren't</p> <p>18 that many suppliers.</p> <p>19 Q. But in terms of dollar -- in terms of</p> <p>00:35:18 20 the expenditure on U308 by Exelon --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- the supply from SOPAMIN is six to</p> <p>23 ten percent; am I understanding that correctly?</p> <p>24 A. I think that's roughly correct.</p>	28	<p>1 MR. SUMMIT: Yes.</p> <p>2 BY THE WITNESS:</p> <p>3 A. No. And I know that's going to sound</p> <p>4 perhaps a little bit strange, but we were signing</p> <p>00:37:50 5 up for essentially market-priced pounds, and so we</p> <p>6 were actually somewhat indifferent whether they</p> <p>7 were actually going to perform or not. If they</p> <p>8 did perform, great. If they didn't perform, our</p> <p>9 hearts were not going to be broken and we would</p> <p>00:38:16 10 chalk it up to experience and move on.</p> <p>11 BY MR. SUMMIT:</p> <p>12 Q. So the meeting with the Minister of</p> <p>13 Mines, was there one meeting or multiple meetings?</p> <p>14 A. Really just one.</p> <p>00:38:36 15 Q. When you say "really just one," does</p> <p>16 that mean just one?</p> <p>17 A. Just one.</p> <p>18 Q. All right. And to the best -- how long</p> <p>19 did it last?</p> <p>00:38:46 20 A. Ten minutes.</p> <p>21 Q. And to the best of your knowledge, who</p> <p>22 was present, to the best of your recollection?</p> <p>23 A. I don't really have a specific</p> <p>24 recollection of who was in the room.</p>
27	<p>1 Q. That's interesting.</p> <p>2 A. Probably rank them third or fourth or</p> <p>3 fifth, maybe.</p> <p>4 Q. Got you.</p> <p>00:35:46 5 Now, to return to Niamey, your meetings</p> <p>6 in Niamey, did the Minister of Mines attend any of</p> <p>7 the meetings that you had with SOPAMIN outside of</p> <p>8 the Minister of Mines offices?</p> <p>9 A. No, he did not.</p> <p>00:36:16 10 Q. SOPAMIN had its own headquarters?</p> <p>11 A. SOPAMIN was working out of the Mines</p> <p>12 Ministry Building.</p> <p>13 Q. Now, SOPAMIN was a fairly new</p> <p>14 organization at the time, was it not?</p> <p>00:36:46 15 A. SOPAMIN was absolutely brand new.</p> <p>16 Q. And did you come to learn during this</p> <p>17 time period how or why it had been created?</p> <p>18 A. No, we did not.</p> <p>19 Q. Did you have any concern about entering</p> <p>00:37:26 20 into a contractual relationship with a new</p> <p>21 organization that you hadn't investigated?</p> <p>22 MR. CROKE: I just want to clarify. Do</p> <p>23 you mean Mr. Nevling personally have any</p> <p>24 concern?</p>	29	<p>1 Q. Is that the only time that you have</p> <p>2 ever met with this particular Minister of Mines or</p> <p>3 any Minister of Mines of Niger?</p> <p>4 A. Yes.</p> <p>00:39:22 5 Q. To the best of your knowledge, was --</p> <p>6 withdrawn.</p> <p>7 Okay. And the Minister of Mines, is it</p> <p>8 accurate to say that the Minister of Mines was the</p> <p>9 only non-SOPAMIN and governmental official --</p> <p>00:40:00 10 Nigerien governmental official with whom you met?</p> <p>11 A. We met very briefly with the Prime</p> <p>12 Minister.</p> <p>13 Q. Who was that at the time?</p> <p>14 A. I don't remember the gentleman's name.</p> <p>00:40:14 15 Q. Okay. And you met with him in his</p> <p>16 office?</p> <p>17 A. Yes.</p> <p>18 Q. And was the Minister of Mines present</p> <p>19 at that meeting?</p> <p>00:40:26 20 A. He was not.</p> <p>21 Q. Who was present at that meeting?</p> <p>22 A. I have no specific recollection of the</p> <p>23 actual attendees.</p> <p>24 Q. If I understood your prior account</p>

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11 (Pages 38 to 41)

<p style="text-align: right;">38</p> <p>1 what has now been marked as Exhibit 7?</p> <p>2 A. No, I have not.</p> <p>3 Q. Okay. All right.</p> <p>4 MR. CROKE: Just to clarify, Exhibit 7</p> <p>00:52:32 5 is including -- is both the actual letter and</p> <p>6 then a translation that you --</p> <p>7 MR. SUMMIT: Yes.</p> <p>8 MR. CROKE: -- as counsel had made by</p> <p>9 presumably a translator?</p> <p>00:52:42 10 MR. SUMMIT: Yes.</p> <p>11 MR. CROKE: Okay.</p> <p>12 MR. SUMMIT: Not an official</p> <p>13 translator; someone who speaks French --</p> <p>14 MR. CROKE: Understood.</p> <p>00:52:48 15 MR. SUMMIT: -- and English.</p> <p>16 BY MR. SUMMIT:</p> <p>17 Q. Okay. Returning to the contract again,</p> <p>18 let me ask you this. Looking for a moment at 3.2,</p> <p>19 Production Page 51?</p> <p>00:53:20 20 A. Uh-huh.</p> <p>21 Q. The introductory sentence there,</p> <p>22 "SOPAMIN will deliver Concentrates of Nigerien</p> <p>23 origin except that SOPAMIN may deliver</p> <p>24 Concentrates of a different origin subject to the</p>	<p style="text-align: right;">40</p> <p>1 the event that there's some sort of difficulty</p> <p>2 with that, we'll accept other material as long as</p> <p>3 we're not disadvantaged.</p> <p>4 Q. Got you.</p> <p>00:55:16 5 A. So this spells out the terms under</p> <p>6 which equivalent material could be sourced.</p> <p>7 Q. Understood.</p> <p>8 In practice, in the execution of this</p> <p>9 contract, did concentrates come from sources other</p> <p>00:55:44 10 than Niger?</p> <p>11 A. Yes.</p> <p>12 Q. What sources?</p> <p>13 A. If you go and you look at the</p> <p>14 documentation attached for the invoicing, you'll</p> <p>00:55:52 15 see a number of sources, most of which are</p> <p>16 affiliates of Areva. Part of this relates to the</p> <p>17 prior conversation about the difficulties of</p> <p>18 physically moving the material.</p> <p>19 Q. Yeah.</p> <p>00:56:06 20 A. In practice, material from Niger is</p> <p>21 shipped to France, it goes to a convertor in</p> <p>22 France in its own account, and SOPAMIN would then</p> <p>23 arrange to exchange material in France for</p> <p>24 material either at Cameco or ConverDyn where I</p>
<p style="text-align: right;">39</p> <p>1 following conditions," and then it lists a bunch</p> <p>2 of conditions.</p> <p>3 Focusing first on the concentrates of</p> <p>4 Nigerien origin, was it your understanding that</p> <p>00:53:50 5 those were going to come from a particular mine</p> <p>6 within Niger?</p> <p>7 A. Two.</p> <p>8 Q. Two mines. What were the names of</p> <p>9 those mines?</p> <p>00:54:00 10 A. They are Akouta, A-K-O-U-T-A, and</p> <p>11 Arlit, A-R-I-I-T.</p> <p>12 Q. Have you ever visited those mines?</p> <p>13 A. I have not. I've meant to for a long</p> <p>14 time, but right now, not safe.</p> <p>00:54:26 15 Q. Yeah.</p> <p>16 A. Not even close to safe.</p> <p>17 Q. Okay. And was there -- why did you</p> <p>18 anticipate, as you apparently did in this</p> <p>19 contract, that there was a possibility that some</p> <p>00:54:50 20 of the uranium concentrate might not come from</p> <p>21 those two mines?</p> <p>22 A. This is actually relatively standard</p> <p>23 language which basically simply says it's our</p> <p>24 expectation that it will come from here, but in</p>	<p style="text-align: right;">41</p> <p>1 needed it. Then in that way someone in North</p> <p>2 America saves themselves the expense of shipping</p> <p>3 stuff to France and they save themselves the</p> <p>4 expense of shipping material in France to North</p> <p>00:56:38 5 America. It's a very common practice in the</p> <p>6 industry.</p> <p>7 Q. Are uranium concentrates -- do you know</p> <p>8 the term fungible?</p> <p>9 A. Yes, I do, and they are.</p> <p>00:56:50 10 Q. Okay.</p> <p>11 MR. CROKE: Do you want to take a break</p> <p>12 or anything?</p> <p>13 THE WITNESS: I'm good.</p> <p>14 MR. SUMMIT: Thank you. I'd like to</p> <p>00:57:06 15 take a break in five or ten minutes.</p> <p>16 THE WITNESS: That's fine.</p> <p>17 MR. SUMMIT: But we're making good</p> <p>18 headway.</p> <p>19 BY MR. SUMMIT:</p> <p>00:57:18 20 Q. So in 4.2 --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- you see that there's reference to</p> <p>23 the mine in Niger?</p> <p>24 A. Yeah.</p>

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62	<p>1 A. I don't know.</p> <p>2 Q. Okay.</p> <p>3 A. I haven't -- yeah.</p> <p>4 Q. Did Moussa Harouna assist you and Brown</p> <p>01:45:40 5 and LaSalle when you were negotiating the</p> <p>6 contract?</p> <p>7 A. He did not.</p> <p>8 Q. Why did you include him on this email,</p> <p>9 if you recall?</p> <p>01:45:56 10 A. I don't recall.</p> <p>11 Q. Okay. The letter -- you will see in</p> <p>12 Production Pages 173 to 174, there's a letter --</p> <p>13 appears to be a letter in French from you to</p> <p>14 SOPAMIN.</p> <p>01:46:18 15 Who drafted this letter in French?</p> <p>16 A. There was a translator who was hired to</p> <p>17 do the translation.</p> <p>18 Q. Got you. So you drafted it in English</p> <p>19 and then it was translated?</p> <p>01:46:28 20 A. Correct.</p> <p>21 Q. Okay. And as you'll see, I think, we</p> <p>22 have an informal translation of that letter</p> <p>23 attached to the exhibit. Do you see that?</p> <p>24 A. Uh-huh.</p>	64	<p>1 roughly, "We understand the material is currently</p> <p>2 at Comurhex under SOMAIR's account and that it is</p> <p>3 ready to be transferred."</p> <p>4 Can you help us out by telling us what</p> <p>01:48:16 5 Comurhex is and SOMAIR?</p> <p>6 A. Okay. Comurhex is a French conversion</p> <p>7 facility.</p> <p>8 Q. Is it run by Areva --</p> <p>9 A. It is.</p> <p>01:48:28 10 Q. -- or somebody else? Okay.</p> <p>11 A. SOMAIR is the mining company that</p> <p>12 operates the Arlit Mine.</p> <p>13 Q. Is SOMAIR affiliated with Areva?</p> <p>14 A. It is.</p> <p>01:48:52 15 Q. Okay. So and then continuing on, it</p> <p>16 makes reference -- you make reference to</p> <p>17 Urangesellschaft, U-R-A-N-G-E-S-E-L-L-S-C-H-A-F-T.</p> <p>18 What is that entity?</p> <p>19 A. Despite the German name, that's also an</p> <p>01:49:28 20 Areva affiliate, and that is their trading</p> <p>21 organization.</p> <p>22 Q. Okay. And in the interests of time, it</p> <p>23 might be simplest if you would just summarize for</p> <p>24 us in simple terms how this particular first</p>
63	<p>1 Q. And, you know, I think for our present</p> <p>2 purposes, the informal translation is adequate. I</p> <p>3 just have a few questions about some of the</p> <p>4 references within the letter.</p> <p>01:47:00 5 MR. CROKE: And just before you do</p> <p>6 that, I just want the record to reflect that</p> <p>7 we've had no chance to confirm whether or not</p> <p>8 this is a correct interpretation.</p> <p>9 MR. SUMMIT: I appreciate that. And</p> <p>01:47:10 10 you reserve all rights --</p> <p>11 MR. CROKE: Yes.</p> <p>12 MR. SUMMIT: -- in connection with this</p> <p>13 informal translation.</p> <p>14 BY MR. SUMMIT:</p> <p>01:47:20 15 Q. Now, first of all, it's addressed to</p> <p>16 the general manager?</p> <p>17 A. I think director general would be a</p> <p>18 better translation.</p> <p>19 Q. Okay. In French, it's director</p> <p>01:47:34 20 general. Was that -- whom were you referring to</p> <p>21 as director general?</p> <p>22 A. At that time the director general was</p> <p>23 Illiassou.</p> <p>24 Q. Okay. And the second sentence says,</p>	65	<p>1 delivery was transpiring.</p> <p>2 A. Right. So SOPAMIN was going to make</p> <p>3 arrangements to deliver to UG in France, and UG</p> <p>4 was going to make deliveries to us at ConverDyn.</p> <p>01:50:12 5 Q. ConverDyn in Canada?</p> <p>6 A. In the United States.</p> <p>7 Q. In the United States. Where in the</p> <p>8 United States?</p> <p>9 A. The very southern tip of Illinois.</p> <p>01:50:24 10 Q. So the physical concentrate was being</p> <p>11 actually shipped to UG in France?</p> <p>12 A. Correct. At the time of this letter,</p> <p>13 it says here that it's currently -- it was already</p> <p>14 in France, currently at Comurhex, but still with</p> <p>01:50:54 15 the ownership of SOMAIR.</p> <p>16 Q. And had you made arrangements for that</p> <p>17 shipment or had SOPAMIN made arrangements for that</p> <p>18 shipment?</p> <p>19 A. I believe that I made these</p> <p>01:51:08 20 arrangements.</p> <p>21 Q. So you made the arrangements to ship,</p> <p>22 the shipment went to UG in France, and title still</p> <p>23 with SOPAMIN?</p> <p>24 A. Correct.</p>

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70	<p>1 A. I don't know that.</p> <p>2 Q. Okay. All right.</p> <p>3 MR. SUMMIT: Okay. Moving along, we</p> <p>4 are going to mark Production Page 92 as</p> <p>01:58:08 5 Exhibit 9.</p> <p>6 (WHEREUPON, Nevling Dep Ex No. 9</p> <p>7 was marked for ID, as of 11/11/14.)</p> <p>8 BY MR. SUMMIT:</p> <p>9 Q. Now this is November 6, 2007, and the</p> <p>01:58:40 10 letter we were just looking at was dated</p> <p>11 November 1, 2007.</p> <p>12 So this is -- does this refer to the</p> <p>13 same transaction? Does this letter that we just</p> <p>14 marked, the November 6th of 2007 letter, refer to</p> <p>01:58:56 15 the same transaction?</p> <p>16 A. Almost certainly.</p> <p>17 Q. Yeah. What is the role of -- it makes</p> <p>18 reference to Honeywell's Metropolis facility.</p> <p>19 A. Uh-huh.</p> <p>01:59:10 20 Q. I take it that's something different</p> <p>21 from the ConverDyn conversion center?</p> <p>22 A. No.</p> <p>23 Q. It's the same?</p> <p>24 A. It is one in the same.</p>	72
71	<p>1 Q. Ah, okay. That clarifies a little</p> <p>2 mystery.</p> <p>3 MR. SUMMIT: Okay. Now let's look at</p> <p>4 Production Pages 179 through 182.</p> <p>02:00:00 5 MS. FAHEY: 183.</p> <p>6 MR. SUMMIT: That's fine, too.</p> <p>7 Let's mark this as the next</p> <p>8 exhibit.</p> <p>9 (WHEREUPON, Nevling Dep Ex No. 10,</p> <p>02:00:46 10 was marked for ID as of 11/11/14.)</p> <p>11 BY MR. SUMMIT:</p> <p>12 Q. Now, the first document is an email</p> <p>13 that seems to go to you from Harouna, Moussa.</p> <p>14 Who is he?</p> <p>02:00:58 15 A. Moussa is Benoit's man --</p> <p>16 Q. Oh, yes.</p> <p>17 A. -- in Niger.</p> <p>18 Q. He says to you in this email, "Hi,</p> <p>19 James. Here the bills for payment to SOPAMIN.</p> <p>02:01:18 20 Best regards, Moussa."</p> <p>21 Why -- was he forwarding you invoices</p> <p>22 from SOPAMIN?</p> <p>23 A. Yeah -- I'm sorry. Was the question</p> <p>24 why?</p>	73